

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

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**KRISTOFFER MARTIN**

**and**

**KAREN FELDE,  
individually and on behalf of  
all others similarly situated,**

**Plaintiffs,**

**v.**

**Case No.: 20-cv-279**

**EATSTREET, INC.**

**Defendant.**

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**JOINT MOTION TO STAY PROCEEDINGS TO CONDUCT MEDIATION**

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Pursuant to FED. R. CIV. P. 16(b)(4), Plaintiffs Kristoffer Martin and Karen Felde, individually and on behalf of all others similarly situated, by and through their attorneys, Hawks Quindel, S.C., and Defendant EatStreet, Inc., by and through its attorneys, Michael Best & Friedrich LLP, (collectively “The Parties”), hereby move this Court to stay the proceedings in this matter for 120 days to permit the Parties to conduct private mediation. In support of this Joint Motion, the Parties state as follows:

1. Plaintiff Martin filed his complaint alleging violations by Defendant of the minimum wage provisions of the FLSA and Wisconsin law as well as the agreed-upon wage provisions of Wisconsin on behalf of putative collective and Rule 23 classes on March 26, 2020. (ECF No. 1.) Plaintiff Martin filed an amended

complaint on April 10, 2020 adding Plaintiff Felde as Named Plaintiff for alleged violations of the overtime provisions of the FLSA and Wisconsin law on behalf of putative collective and Rule 23 classes on April 10, 2020. (ECF No. 15.)

2. On April 15, 2020, Counsel for Defendant agreed to waive the service of summons in this matter (ECF No. 19); thereby, requiring Defendant to file a responsive pleading on or before June 12, 2020.

3. Over the last five weeks, Counsel for the Parties have engaged in ongoing discussions to determine a course of action in this matter that preserves both Parties' and the Court's resources while also efficiently exploring resolution of their disputes on a collective and class-wide basis.

4. Accordingly, the Parties have agreed and respectfully request the Court to enter an Order stating as follows:

- a. These proceedings are stayed for 120 days to allow the Parties time to discuss good faith resolution of their disputes in this matter on a collective and class-wide basis;
- b. The statutes of limitations of the putative members of the 29 U.S.C. § 216(b) Collective classes that have yet to file a consent form in this matter are tolled during the course of this stay;
- c. By bringing this joint motion, Defendant is in no way admitting any of the allegations contained in Plaintiffs' Amended Complaint or any liability to Plaintiffs, as alleged therein or otherwise;
- d. Neither Party shall waive any claims as asserted in this matter or any defenses to such claims, including defenses related to subject

matter jurisdiction or as to the proper forum for resolving the claims asserted in this matter, during this stay or as a result of jointly agreeing to enter this stay;

- e. The Parties agree to work cooperatively and in good faith, pursuant to Fed. R. Evid. 408, to identify and exchange necessary discovery in order to permit both Parties to engage in an effective mediation and agree to engage in mediation before a private, third party mediator during the course of this stay in a good faith attempt to resolve their disputes; and
- f. The Parties are ordered to jointly notify the Court of any proposed settlement or request a status conference to further schedule this matter no later than October 12, 2020.

5. The Parties attest that this Motion is not being brought for any improper purpose or to cause undue delay but rather to allow the Parties time to explore good faith resolution of this matter on a collective and class-wide basis as efficiently as possible and without being prejudiced by the passage of time during this stay. The Parties further state that the length of this stay is necessary to identify, produce, and analyze data necessary to evaluate these claims and engage in good faith settlement negotiations.

Therefore, the Parties respectfully request that the case be stayed for 120 days to permit the Parties to conduct mediation.

Dated this 22nd day of May 2020.

Respectfully submitted,

Respectfully Submitted,

s/Michelle L. Dama

Michelle L. Dama  
WI Bar No. 1041809

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